

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ARTHUR MOSES,

Plaintiff,

VS.

GORDON'S FOOD SERVICE,

Defendant.

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) No. 2:23-cv-636
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) District Judge Robert J. Colville
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) Magistrate Judge Patricia L. Dodge
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ORDER OF COURT

Before the Court is the Honorable Patricia L. Dodge's August 18, 2023 Report and Recommendation (ECF No. 6) recommending that this case be dismissed without prejudice due to Plaintiff's failure to properly effectuate service on Defendant. Objections to Judge Dodge's Report and Recommendations were due by September 1, 2023. Plaintiff filed Objections (ECF No. 7) on August 25, 2023 via which he avers that he served Defendant by email and by physically sending his Complaint to Defendant on April 18, 2023. Accordingly, this matter is ripe for disposition.

“The Federal Magistrates Act provides two separate standards of judicial review of orders on matters referred to magistrate judges.” *Alarmax Distributors, Inc. v. Honeywell Int’l Inc.*, No. 2:14-cv-1527, 2015 WL 12756857, at *1 (W.D. Pa. Nov. 24, 2015) (citing 28 U.S.C. § 636(b)(1)). A district court reviews objections to a magistrate judge’s decision on non-dispositive matters to determine whether any part of the order is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a). Objections to a magistrate judge’s disposition of a dispositive matter are subject to de novo review before the district judge. 28 U.S.C. § 636(b)(1)(B)-(C); Fed. R. Civ. P. 72(b)(3). The reviewing district court must make a de novo determination of those

portions of the magistrate judge's report and recommendation to which objections are made. *Id.* Following de novo review, "[t]he district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3). The United States Court of Appeals for the Third Circuit has explained that, "even absent objections to the report and recommendation, a district court should 'afford some level of review to dispositive legal issues raised by the report,'" and has "described this level of review as 'reasoned consideration.'" *Equal Employment Opportunity Comm'n v. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017) (quoting *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987)).

Upon consideration of the record in this matter, the Court agrees with the thorough and well-reasoned analysis set forth in Judge Dodge's Report and Recommendation, and the Court accepts and adopts Judge Dodge's Report and Recommendation in its entirety as the opinion of the Court in this matter. Plaintiff's Objections do not to cure the deficiencies noted in the Report and Recommendation, as they are materially similar to the document filed at ECF No. 5 considered by Judge Dodge. See also R & R 2, ECF No. 6 ("No documentation related to proof of service is attached to this filing or has otherwise been submitted by Plaintiff."). Plaintiff's Objections are overruled. This case is dismissed without prejudice based upon Plaintiff's failure to make service upon the Defendant. The Clerk of Court shall mark this case as closed.

BY THE COURT:

s/Robert J. Colville
Robert J. Colville
United States District Judge

DATED: December 11, 2023

cc: The Honorable Patricia L. Dodge

Arthur Moses
206 Camp Avenue
Pittsburgh, PA 15104